



0000109863

ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2010 APR -7 P 2:14

COMMISSIONERS

KRISTIN K. MAYES, Chairman
 GARY PIERCE, Commissioner
 PAUL NEWMAN, Commissioner
 SANDRA D. KENNEDY, Commissioner
 BOB STUMP, Commissioner

AZ CORP COMMISSION
 DOCKET CONTROL

IN THE MATTER OF THE
 APPLICATION OF THE GENERIC
 PROCEEDING CONCERNING
 ELECTRIC RESTRUCTURING ISSUES

DOCKET NO. E-00000A-02-0051

IN THE MATTER OF THE GENERIC
 PROCEEDING CONCERNING THE
 ARIZONA INDEPENDENT
 SCHEDULING ADMINISTRATOR

DOCKET NO. E-00000A-01-0630

AMENDMENT TO SUPPLEMENTAL
 COMMENTS OF FREEPORT-
 MCMORAN COPPER
 & GOLD INC. AND ARIZONANS
 FOR ELECTRIC CHOICE AND
 COMPETITION

Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and Competition (hereafter collectively "AECC") hereby submit this amendment to its supplemental comments filed on April 2, 2010. On page 4, lines 14-15 of AECC's supplemental comments, AECC stated, "[h]owever, recent data shows that electric rates in the New York service area have actually decreased 49% over 2008 rates." We failed to cite the source of the information concerning the reduction of electricity prices in New York. The source is an article from Forbes magazine, a copy of which is attached as Attachment 1. Fahey, Jonathan "Power Moves." *Forbes*, April 12, 2010.

Arizona Corporation Commission

DOCKETED

APR -7 2010

DOCKETED BY

1 RESPECTFULLY SUBMITTED this 7th day of April, 2010.

2 FENNEMORE CRAIG, P.C.

3
4 By 

5 C. Webb Crockett
6 Patrick J. Black
7 3003 North Central Avenue, Suite 2600
8 Phoenix, Arizona 85012-2913

9 Attorneys for Freeport-McMoRan Copper and Gold
10 Inc. and Arizonans for Electric Choice and
11 Competition

12 **ORIGINAL and 13 COPIES** of the foregoing
13 **FILED** this 7th day of April, 2010 with:

14 Docket Control
15 ARIZONA CORPORATION COMMISSION
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 **COPY Hand Delivered and *E-MAILED**
19 this 7th day of April, 2010 to:

20 *Lyn Farmer
21 Chief Administrative Law Judge
22 Hearing Division
23 Arizona Corporation Commission
24 1200 West Washington
25 Phoenix, Arizona 85007
26 lfarmer@azcc.gov

*Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007-2927
JAlward@azcc.gov

1 *Steven M. Olea, Director
2 Utilities Division
3 Arizona Corporation Commission
4 1200 West Washington Street
5 Phoenix, AZ 85007-2927
6 solea@azcc.gov

7 **COPY MAILED** this
8 7th day of April, 2010 to:

9 Robert Lynch
10 340 EAST Palm Lane, 3140
11 Phoenix, Arizona 85004-4529

12 Vicki Sandler
13 14402 South Canyon Drive
14 Phoenix, Arizona 85048

15 Philip Dion
16 UniSource Energy Corporation
17 One South Church Avenue, Suite 200
18 Tucson, Arizona 85701-1623

19 Daniel Pozefsky
20 1110 West Washington, Suite 220
21 Phoenix, Arizona 85007

22 Gary Yaquinto
23 Arizona Utility Investors Association
24 2100 North Central Avenue, Suite 210
25 Phoenix, Arizona 85004

26 Michael Grant
2575 East Camelback Road
Phoenix, Arizona 85016-9225

Christopher Hitchcock
Law Offices of Christopher Hitchcock, PLC
One Copper Queen Plaza
P.O. Box AT
Bisbee, Arizona 85603

Peter Nyce
Office of the Judge Advocate General
901 North Stuart Street -- #713
Arlington, Virginia 22203-1644

- 1 Dan Neidlinger
- 2 Neidlinger & Associates
- 3 3020 North 17th Drive
- 4 Phoenix, Arizona 85015
- 5
- 6 Lawrence Robertson, Jr.
- 7 2247 East Fronttree Road, Suite 1
- 8 P.O. Box 1448
- 9 Tubac, Arizona 85646
- 10
- 11 David Berry
- 12 P.O. Box 1064
- 13 Scottsdale, Arizona 85252-1064
- 14
- 15 Jay Moyes
- 16 1850 North Central Avenue, #1100
- 17 Phoenix, Arizona 85004
- 18
- 19 Russell Jones
- 20 5210 East Williams Circle, #800
- 21 Tucson, Arizona 85711
- 22
- 23 Michael Curtis
- 24 501 East Thomas Road
- 25 Phoenix, Arizona 85012-3205
- 26
- 1 Kenneth Sundlof, Jr.
- 2 Jennings Strouss & Salmon, P.L.C.
- 3 201 East Washington Street,
- 4 11th Floor
- 5 Phoenix, Arizona 85004-2385
- 6
- 7 Kelly Barr
- 8 SRP
- 9 P.O. Box 52025
- 10 M/S PAB221
- 11 Phoenix, Arizona 85072-2025
- 12
- 13 William Baker
- 14 7310 North 16th Street
- 15 Suite 102
- 16 Phoenix, Arizona 85020-5276
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Kevin Higgins
215 South State Street
Suite 200
Salt Lake City, Utah 84111

Jana Brandt
Mail Station PAB 221
P.O. Box 52025
Phoenix, Arizona 85072-2025

John Wallace
120 North 44th Street, #100
Phoenix, Arizona 85034

Stacey Rantala
3333 K Street, NW, Suite 110
Washington, District of Columbia 20007

By: *Maia San Jose*
2304785.1

Attachment 1

even accounts receivable in the case of a business. The point is to put the government ahead of other creditors in case an asset is sold or the taxpayer goes bankrupt. But National Taxpayer Advocate Nina E. Olson argues Uncle Sam is shooting himself in the foot in some cases, given the impact the lien has on a delinquent's ability to earn a living, pay off his tax bill and even stay off the public dole.

Indeed, as IRS use of liens has climbed, the amount its collection efforts bring in, adjusted for inflation, has declined by 7.4% to \$27.2 billion. That decline is in part due

to the weak economy, but it may also represent a tendency of draconian collection techniques to backfire. "Why is the IRS destroying the credit of so many taxpayers if doing so isn't furthering revenue collection?" Olson asks.

Once a taxpayer pays up, the lien stays in his credit file for seven years. Moreover, the IRS is reluctant to use a power Congress gave it to withdraw a lien so it doesn't blot a taxpayer's record. In one case a finance industry employee had paid most of his tab and stood to lose his job because of the lien. Olson intervened, and collections finally withdrew

the lien—after he was fired, she says.

The IRS has a task force examining its collection policies and recently reiterated that it wants to work with taxpayers in these hard times. But Robert E. McKenzie, a tax lawyer at Arnstein & Lehr in Chicago with a big collections practice, suggests that the growing deficit is pressuring the IRS to get tougher still. "Congress is very prone to pick on the IRS when the government is flush," he says. "Once we run out of money, Congress is more likely to engage a blind eye when the IRS uses brownshirt tactics." **F**

COMPETITIVE JUICE

Power Moves

Volatile electricity prices and new technologies are finally allowing retail power sellers to deliver on the promise of deregulation.

By Jonathan Fahey

THE GIANT BRAIN THAT manages the electricity used by 27 buildings owned by Vornado Realty Trust around Washington, D.C. just got smarter. With a new service developed by Constellation Energy's NewEnergy subsidiary, Vornado can modulate the power used in those buildings as one in response to electricity prices. Vornado uses less power that way and pays less for it, says Sukanya Paciorek of Vornado.

This is how it was supposed to work when the federal government and 22 states began to deregulate the electricity market starting in the late 1990s. The hope was that power sellers would lower prices and devise creative sales contracts as they competed with each other

for customers. It didn't happen. Instead, prices rose, customers stayed with their old utilities, new generation wasn't added fast enough to keep up with demand, and utilities began to abandon the retail electricity sales business.

Now, finally, two big factors are getting electricity customers to shop around for power. After years of steady price increases, electricity prices have been bouncing around and generally falling, and technology once only available to big industrial customers is trickling down to smaller users. In the mid-Atlantic electricity service area prices fell 45%

in 2009, and in the New York service area the price was the lowest in the ten-year history of the market, 49% below 2008 levels.

Competitive retail providers, like NewEnergy or Direct Energy, offer rate plans that allow customers to lock in current rates for all or almost any portion of their usage. Customers can also opt to pay different rates based on when they use power or to get paid for

using less power during certain peak periods. Now, with the use of so-called smart meters, small business and even some residences can communicate with providers and buy power more like big customers can.

When regulations were lifted in a big chunk of eastern Pennsylvania this year, 26% of customers representing 40% of the electricity load switched providers in just ten weeks. One reason is

price; another is that all its customers have smart meters.

Some buyers complain that deregulation still isn't working because it hasn't inspired power companies to build more plants. With today's low prices that won't change soon.

Those low prices cut both ways for firms like Constellation because its power plants earn less. In the meantime, its retail arm is using lower prices to lure more customers—all the better for Constellation when prices rise again. **F**

PRICE PROTECTION

Electricity prices tanked in 2009, allowing retail electricity providers to lure customers with lower rates, fixed prices and other pricing schemes.

